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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,731	09/10/2003	John M. Vincak	10532	3889

7590 06/21/2005

National IP Rights Center, LLC
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EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,731

Applicant(s)

VINCAK, JOHN M.

Examiner

Jon A. Szumny

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4 and 7-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4 and 7-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

This is the third office action for application number 10/659,731, Work
Stand, filed on September 10, 2003.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 9, 2005 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

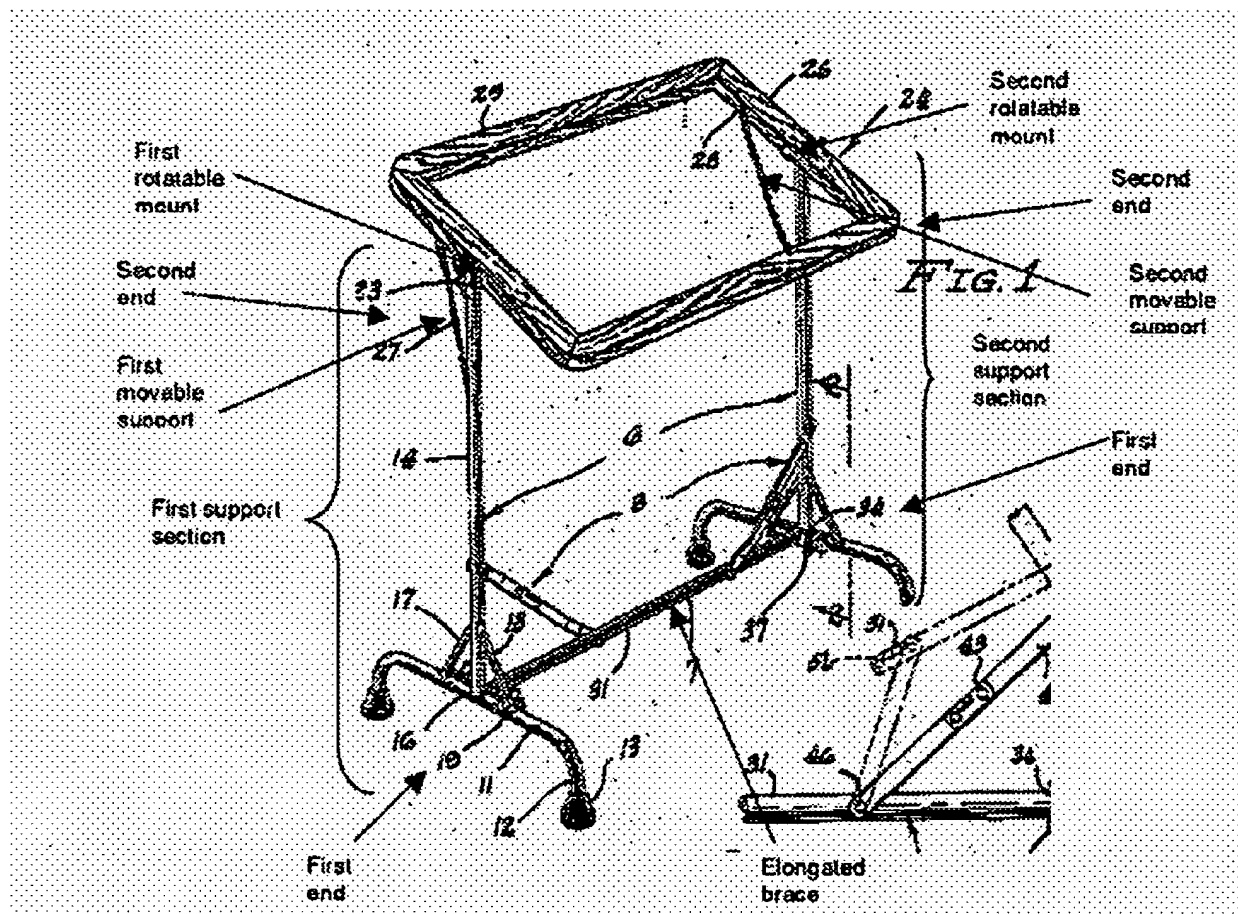
Claims 4 and 7-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear if the applicant is intending to recite the subcombination of a work stand *for supporting* a workpiece (as recited in the preamble of claims 4, 12 and 13), or the combination of a work stand *and* a workpiece (as recited near the ends of claims 4, 12 and 13, "wherein a first end of the workpiece..." and "wherein a second end of the workpiece..."). The applicant must make it clear whether the workpiece is intended to be recited functionally or positively as part of the combination with the work stand. For the purposes of this office action, the Examiner will assume the workpiece is recited merely *functionally* such that the *subcombination* of a work stand *for supporting* a workpiece is the invention.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35 U.S. Code not included in this action can be found in a prior Office action.

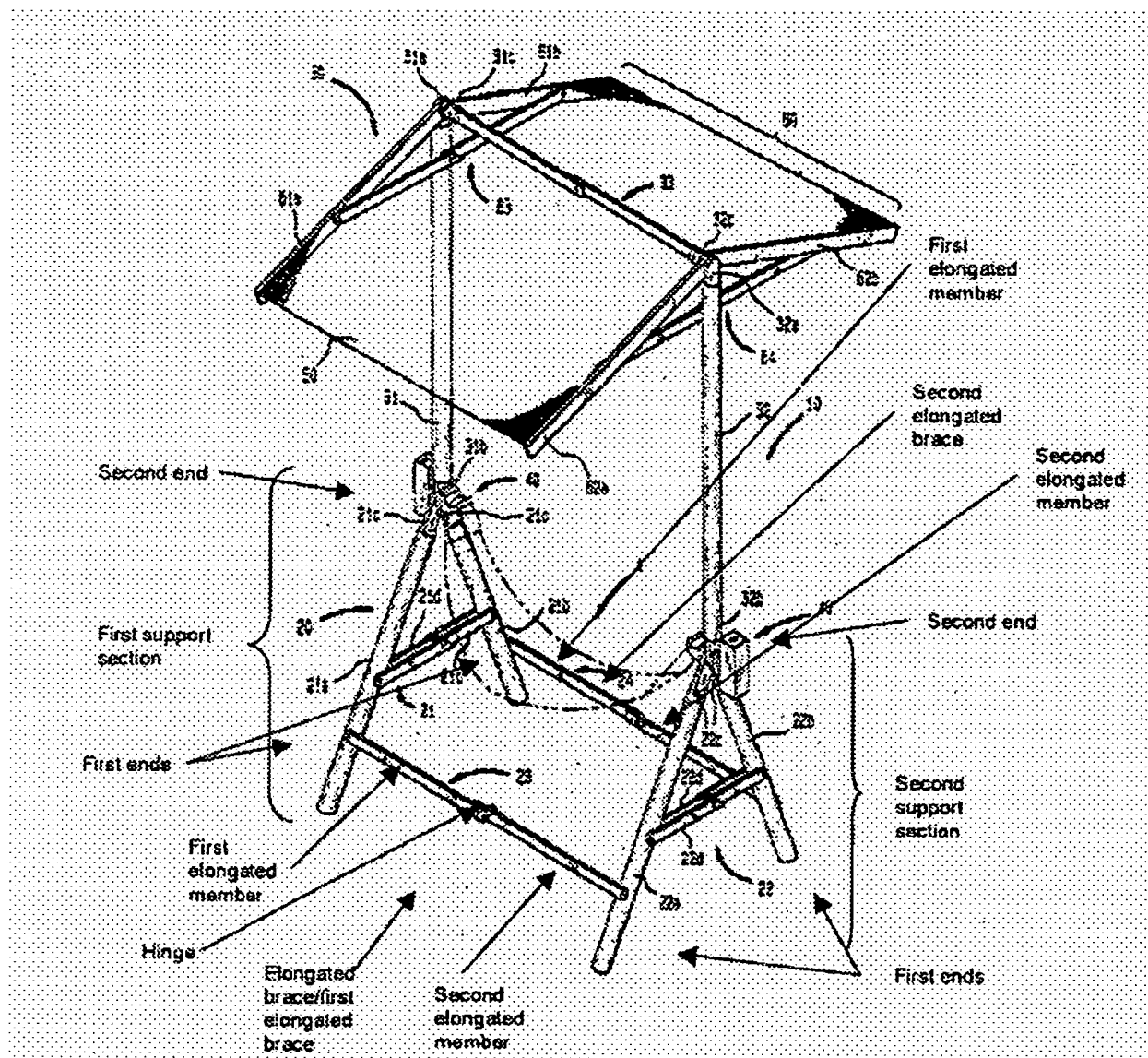
Claims 4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Ferris '981.



Ferris '981 discloses a stand (above) comprising first and second support sections (above) each having first and second ends, a first rotatable mount (above) disposed upon the first support section proximate to the second end thereof ("proximate" is defined in Merriam Webster's Collegiate Dictionary - 10th Edition as being "close," so clearly, the first rotatable mount is disposed "close" to the second end of the first support section; further, all subsequent uses of the term "proximate" in this office action will use the same meaning, and all features being compared as "proximate" are clearly "close" to one another), a second rotatable

mount (above) disposed upon the second support section proximate to the second end thereof, an elongated brace (above) having a first end (left end of elongated brace above) attached to/disposed on the first support section proximate to the first end thereof and a second end (right side of elongated brace above) attached to/disposed on the second support section proximate to the first end thereof, a first movable support (above) disposed upon the first support section proximate to the first rotatable mount and beneath the first rotatable support, a second movable support (above) disposed upon the second support section proximate to the second rotatable mount and beneath the second rotatable mount, wherein a first end of a workpiece could inherently be mounted to the first movable support, wherein a second end of a workpiece could inherently be mounted to the second movable support.

Claims 4 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by de Cuadros '203.



Regarding claims 4, 10 and 11, de Cuadros '203 discloses a stand (above) comprising first and second support sections (above) each having first and second ends, a first rotatable mount (41, it can rotate about the threads) disposed upon the first support section proximate to the second end thereof, a second rotatable mount (41, it can be rotated about the threads) disposed upon the second support

Art Unit: 3632

section proximate to the second end thereof, a first movable support (31,31b, see column 3, lines 2-3, "pivotally") disposed upon the first support section proximate to the first rotatable mount, a second movable support (32,32b) disposed upon the second support section proximate the second rotatable mount, an elongated brace (above) having a first end (left end of elongated brace above) attached to/disposed on the first support section proximate to the first end thereof and a second end (right side of elongated brace above) attached to/disposed on the second support section proximate to the first end thereof, wherein the elongated brace further comprises a first elongated member (above) having first and second ends (left and right sides respectively, above), and a second elongated member (above) having first and second ends (right and left sides respectively, above), whereby the first end of the first elongated member is pivotally attached to the first support section proximate to the first end of the first support section, the first end of the second elongated member is pivotally attached to the second support section proximate to the first end of the second support section, and the second end of the first elongated member is pivotally attached to the second end of the second elongated member, wherein a hinge (above, 33f, see column 3. lines 35-52) disposed at the second ends of the elongated member, hingedly connecting

the first elongated member to the second elongated member; wherein a first end of a workpiece could inherently be mounted to the first movable support, wherein a second end of a workpiece could inherently be mounted to the second movable support.

Further, regarding claim 12, de Cuadros '203 teaches the above first support section to have first and second legs (21a,21b) each having first and second ends (above), wherein the second ends of the first and second legs are substantially together and the first ends of the first and second legs are substantially apart, and the second support section to have first and second legs (22a,22b) each having first and second ends (above), wherein the second ends of the first and second legs are substantially together and the first ends of the first and second legs are substantially apart, wherein the stand further includes a first support brace (21d) having a first end connected to the first leg of the first support section proximate to the first end of the first leg of the first support section, and the second end of the first support brace is connected to the second leg of the first support section proximate to the first end of the second leg of the first support, wherein the stand includes a second support brace (22d) having a first end connected to the first leg of the second support section proximate to the first end of the first leg

of the second support section, and the second end of the second support brace is connected to the second leg of the second support section proximate to the first end of the second leg of the second support section, wherein the above mentioned elongated brace is a first elongated brace, wherein the first elongated member of the first elongated brace has a first end pivotally attached to the first leg of the first support section proximate to the first end of the first leg of the first support section, wherein the first end of the second elongated member of the first elongated brace is pivotally attached to the first leg of the second support section proximate to the first end of the first leg of the second support section, and the second end of the first elongated member of the first elongated brace is pivotally attached to the second end of the second elongated member of the first elongate brace, wherein the stand further includes a second elongated brace (above), wherein a first elongated member of the second elongated brace has a first end pivotally attached to the second leg of the first support section proximate to the first end of the second leg of the first support section, wherein the first end of a second elongated member of the second elongated brace is pivotally attached to the second leg of the second support section proximate to the first end of the second leg of the second support section and the second end

of the first elongated member of the second elongated brace is pivotally attached to the second end of the second elongated member of the second elongated brace; wherein the stand includes a first rotatable mount disposed upon the first support section proximate the second end of the first support section, a second rotatable mount disposed upon the second support section proximate the second end of the second support section, a first movable support disposed upon the first support section proximate the first rotatable mount wherein a first end of a workpiece could inherently be mounted to the first movable support, and wherein a second movable support is disposed upon the second support section proximate to the second rotatable mount wherein a second end of a workpiece could inherently be mounted to the second movable support.

Claim Rejections - 35 USC § 103

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris '981.

Ferris '981 discloses the previous invention wherein it appears the first and second movable mounts are respectively mounted on the inside or outside of the first and second support sections, but it is not completely clear whether they are

in fact mounted on either the inside or the outside of the support sections. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have respectively mounted the first and second movable mounts on the inside or outside of the first and second support sections so as to either provide easier access to the movable mounts (if mounted on the outside) or to provide greater concealment of the movable mounts for aesthetical reasons if mounted on the inside). Further, either configuration would provide sufficient support of an object utilizing the stand.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferris '981.

Ferris '981 teaches the above-described stand failing to specifically teach the stand to be formed of wood. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the stand of many different materials such as metals, plastics, and more specifically of wood, since such is a common material in the art. Further, the applicant has not specifically mentioned in the original specification why doing so provides any unexpected result.

Response to Arguments

Applicant's arguments filed June 9, 2005 have been fully considered but they are not persuasive.

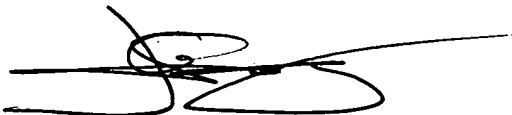
Regarding the applicant's response, the only arguments of any substance contend that none of the references teach a first and second end of a workpiece to be respectively mounted to first and second movable supports. It is noted that because of the ambiguity between the preamble and bodies of claims 4, 12 and 13, the Examiner has assumed the workpiece is recited merely *functionally*. However, even if the claims were modified so as to clearly recite the workpiece positively, the references of Ferris '981 and de Cuadros '203 would still read on the claims since member 24 in Ferris '981 and member 30 in de Cuadros '203 could clearly be generally referred to as "workpieces" since they are pieces and work could be performed thereon, and such workpieces are attached to the first and second movable supports.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (571) 272-6824. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600.

A handwritten signature in black ink, appearing to read 'Jon Szumny', with a long horizontal line extending to the right.

Jon Szumny
Primary Examiner
Technology Center 3600
Art Unit 3632
June 16, 2005